

**REGULAR MEETING OF THE
BRIGHAM CITY COUNCIL
OCTOBER 15, 2009**

PRESENT: Lou Ann Christensen Mayor
 Bruce Christensen Councilmember
 Scott Ericson Councilmember
 Ruth Jensen Councilmember
 Bob Marabella Councilmember

ALSO PRESENT: Mark Bradley City Planner
 Jim Buchanan Emergency Services Director
 Mary Kate Christensen City Recorder
 Blake Foncesbeck Public Works Director
 Jared Johnson Community Development Manager
 Paul Larsen Economic Development Director
 Bruce Leonard City Administrator
 Jason Roberts Finance Director
 Paul Tittensor Chief of Police
 Alan Wright Public Power Director

EXCUSED: Reese Jensen Councilmember

Mayor Christensen called the meeting to order. The Reverence Period was given by Alan Wright. The scouts in the audience led the Pledge of Allegiance. A motion to approve the minutes of September 21, 2009 was made by Councilmember Ericson, seconded and carried. Mayor Christensen presented the agenda as follows:

PUBLIC COMMENT

CONSENT

- Appointments and Reappointments to the Golf Course Commission
- Reappointment to the Volunteer Center Advisory Board
- Reappointment to the Airport Advisory Board
- Appointments to the Appeal Authority
- Reappointment to the Heritage and Cultural Arts Advisory Board
- Reappointments to the Planning Commission
- Appointment to the Library Board

SCHEDULED DELEGATION

- Report from the Natural History Museum Task Force (*tabled*)
- Update on Eagle Village Properties

NEW BUSINESS

- Application for Bus Benches on 1100 South and Main
- Discussion Regarding Funding for Telecommunication Infrastructure Installation
- Relocation of Recycling Center Located on Old Fire Station Property to the Former K-Mart Property
- Request to Accept Annexation Petition from Don Robinson
- Amendment to Title 10, Electricity, Duties of Consumer to Keep Meter Unobstructed and Accessible

PLANNING COMMISSION BUSINESS

- Clarification on Setbacks for Kotter Canyon PUD Subdivision
- Amendment to Chapter 29.12, Residential and Multiple Residential Districts, to Include Standards for Recreation Space, Landscaping and Protection of Single Family Dwellings

MAKING LIFE BETTER - DEPARTMENT REPORTS

OTHER BUSINESS

CLAIMS

- Payment Register

Councilmember Christensen made a motion to approve the agenda as amended. The motion was seconded and carried unanimously.

PUBLIC COMMENT

Claudia Ross - Ms. Ross is a homeowner in the Eagle Crest Town Homes in Eagle Village. She expressed concern with the lack of trees that have been promised. The Master Plan specified that there will be trees up and down all the streets within the development. It has been nine years and there are still no trees. Homeowners were told when they purchased their homes that trees would be provided by the developer. When the homeowners contacted the City, the City contacted the developer and he said they will put them in some time, but not now. The Master Plan runs out next year and they still don't have trees. She asked the Council to consider this matter and require the developer to make good on their promises. If they don't, she suggested the City put in the trees and then bill the developer. Mayor Christensen assigned Mr. Leonard to follow up with Ms. Ross.

There were no further comments from the public.

CONSENT

Appointments and Reappointments to the Golf Course Commission

It was recommended Blake Broadhead and Jake Sedmack be appointed to the Golf Course Commission and lone Allen be reappointed to the same Board.

Reappointment to the Volunteer Center Advisory Board

It was also recommended Nancy Cannon be appointed to the Volunteer Center Advisory Board.

Reappointment to the Airport Advisory Board

Dr. David Hess was recommended for reappointment to the Airport Advisory Board.

Appointments to the Appeal Authority

Richard Kimber was recommended for appointment as a member to the Appeal Authority and Stan Odenthal was recommended to the same board as an alternate.

Reappointment to the Heritage and Cultural Arts Advisory Board

It was recommended the Council approve Susan Neidert to the Heritage and Cultural Arts Advisory Board.

Reappointments to the Planning Commission

Barbara Poelman and Deon Dunn were recommended for reappointment to the Planning Commission.

Appointment to the Library Board

It was also recommended Shelly Davis serve on the Library Board.

MOTION: A motion to approve the Consent Agenda was made by Councilmember Marabella, seconded and carried.

SCHEDULED DELEGATION

Update on Eagle Village Properties

Mr. Rob Reynard came forward and stated that two years ago Brigham City filed 20 criminal misdemeanor charges against his clients related to various issues the City has on the Eagle Village properties. Shortly after that he met with Mike Christiansen, City Attorney, and asked to meet with City Officials to figure out a way to address the City's concerns and also take into account some of the realities facing his client. They were told by Mr. Christiansen that if they wanted to deal with Brigham City, they had to deal with him. The criminal charges were recently resolved with a settlement agreement. There have been significant steps by his client to resolve some of these concerns. However, some of the problems are going to be ongoing problems, such as weed control. As part of their efforts to resolve the City's concerns, they boarded up all the first and second floors of all the buildings. However, he noticed today that there are two more doors that have been kicked in. The reality is that there are very limited resources to do anything with these properties. He said his clients are

1 willing to sit down with the City and come up with ideas of what to do with the property, such as a public-private
2 development. They have looked at trying to sell the properties, but a major problem is that everyone seems
3 to know that the City is upset about this and that charges have been filed in the past and no one wants to
4 touch it.

5
6 Mr. Morgan reported that the City has entered into a settlement agreement with the developers of Eagle
7 Village. This is not a new problem, it has been an ongoing issue for several years. The City would just like
8 them to abide by the settlement agreement. If it is followed there will not be any problems with the City. Judy
9 Loveland, Neighborhood Improvement Coordinator, went on the property to see if there had been any
10 improvements made and the City received a letter that she was trespassing. All the City wants to do is get the
11 property up to City Code and that is what the settlement agreement is about. Mr. Morgan said he drove
12 through the property today and all the weeds have not been cut down. They have done a substantial amount
13 after they signed the settlement agreement but they are no where near completion of the agreement.

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15 Mr. Reynard said their position is that they are in compliance with the agreement. It is an ongoing challenge.
16 It a very large piece of property. His clients are doing the best they can do with the limited resources they
17 have. They are looking for an opportunity to sit down with City staff and find out what the City's concerns are.
18 Mr. Christiansen stated that the City has had multiple meetings with Mr. Reynard and his clients since 2007,
19 providing both what the Nuisance Ordinance requires and the ongoing abatement of those nuisances. There
20 is a court hearing scheduled to review the settlement agreement because there is a difference of opinion,
21 however, he denied that he has declined Mr. Reynard's client from talking to the City. Mr. Reynard said they
22 had one meeting and that was in July 2007.

23
24 Councilmember Marabella said if the property owners board up the property and a week later someone breaks
25 into it, they have to board it up again. This property is on the internet for ghost sitings and people come from
26 all over to get into the buildings. They should have a local person to monitor the property and to board it up
27 on a daily basis if needed. In addition, there are shrubs and bushes that cover up the entrances. If these were
28 cut down so it is known if a door is open, then the problem can be controlled. He added that if the project is
29 too big and isn't working for them, they should sell it. He has had clients that have tried and tried to purchase
30 property from Mr. Reynard's clients and it is impossible to locate anyone. He had a client that tried for six
31 months. They should put a sign on the property with a phone number, divide it into smaller pieces, and it will
32 sell if it is priced right. It is no different than any other property owner that has responsibility of taking care of
33 their own property.

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35 Councilmember Ericson added that the Council understands that the economy is difficult right now, but in the
36 last five years it has been the best economy in a generation.

37 38 39 **NEW BUSINESS**

40 **Application for Bus Benches on 1100 South and Main**

41 Mr. Jared Johnson came forward and said staff contacted the Utah Transit Authority (UTA) to get the ridership
42 information for each stop. The City received a donation from the Ladies Community Club for benches. One
43 of the difficulties of working this issue is that both 1100 South and Main are UDOT right-of-ways. It is a every
44 long process to get the permits and it costs money, and the permits have to be renewed each year. Another
45 option is to put the benches on other stops that are on City streets. Councilmember Marabella suggested
46 placing the benches on the private portion of the property on the state roads.

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48 The cost for benches range from \$300-\$1,000. This does not include the cost for a concrete pad. An enclosed
49 shelter would be \$5,000-\$9,000.

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51 The Council instructed Mr. Johnson to get more information on the possibility of placing the benches on
52 private property on state-owned streets and return to the Council.
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Discussion Regarding Funding for Telecommunication Infrastructure Installation

Mr. Larsen stated that Mr. Roberts looked at ways to finance this and found that there a number of capital projects that are either under budget or not proceeding. He recommended this be used to fund the installation of the UTOPIA infrastructure to City buildings.

Councilmember Marabella felt that there is a payback to the City by getting these connections, and he was satisfied that the money would not come from the City's savings. Mr. Roberts said monthly fees for the internet and telephone will be less. The City should see a return on investment within three years.

MOTION: Councilmember Christensen made a motion to approve the funding of the infrastructure as suggested by the Director of Finance to take funds as suggested, seconded by Councilmember Marabella. Councilmember Ericson added that this is not a bond for the entire UTOPIA project, just a bond to connect the infrastructure to City buildings. It is just like citizens that are going to pay to connect to UTOPIA, the City is paying to get UTOPIA services. Voting was unanimously.

Relocation of Recycling Center Located on Old Fire Station Property to the Former K-Mart Property

Mr. Fonnesebeck came forward and explained that this is an alternate for recycling bins that are currently on the old the fire station. He talked to Andy Shinkle at the Utah State University Campus and he felt having the bins at the old K-Mart property would work. His biggest concern is that it be kept clean and that the neighbors felt good about it. Mr. Shinkle contacted the neighbors and they agreed to it.

MOTION: Councilmember Ericson made a motion to relocate the recycling center to the former K-Mart property on the southeast side of the property, seconded by Councilmember Marabella. Voting was unanimously

Request to Accept Annexation Petition from Don Robinson

Ms. Christensen and Mr. Bradley came to the table. Ms. Christensen reported that she received a petition for annexation from Don Robinson for his property on Highway 13. This request is to accept the petition, not the annexation. This will begin the annexation process.

MOTION: A motion to accept the annexation petition from Don Robinson was made by Councilmember Marabella, seconded by Councilmember Ericson and unanimously carried.

Amendment to Title 10, Electricity, Duties of Consumer to Keep Meter Unobstructed and Accessible

Mr. Wright and Mr. Burnett joined the Council. Mr. Wright explained that they have experienced some problems with shrubbery and trees that cover up the meters. When City employees trim these back, citizens have complained about it. This amendment will require citizens to trim their own shrubs so the Electric Department has access to the meters.

MOTION: Councilmember Ericson made a motion to amend Title 10 of the Brigham City Code regarding duties of consumer to keep meter unobstructed and accessible. The motion was seconded by Councilmember Christensen. The motion unanimously carried.

PLANNING COMMISSION BUSINESS

Clarification on Setbacks for Kotter Canyon PUD Subdivision

Mr. Bradley came forward and explained that in 2007 when Kotter Canyon went through the process of forming a PUD, staff recommended a reduction in the front yard setback for some of the upper lots. For some reason, this was never resolved. Staff recently asked the developer to identify which lots they felt should be considered for a reduced setback. They proposed that all the single family homes have the flexibility of having a reduced front yard setback. They felt this would provide uniformity throughout.

MOTION: Councilmember Christensen made a motion to approve the setbacks for Kotter Canyon PUD Subdivision as presented. Councilmember Ruth Jensen seconded the motion, unanimously carried.

Amendment to Chapter 29.12, Residential and Multiple Residential Districts, to Include Standards for Recreation Space, Landscaping and Protection of Single Family Dwellings

This is a follow up to a previous item which the Council tabled and asked Mr. Bradley to provide additional information in the following four areas.

Talk to YCU about how the use as a transitional housing would affect them. Mr. Bradley spoke with YCU and they are not concerned with this. They felt they fit more in the protective housing category.

Change the requirement of a solid fence to allow chain link fences with slats. The amendment states that chain link fences are not considered a solid fence unless the chain link has interlocking opaque vinyl which is pre-inserted. Councilmember Marabella expressed concern with requiring a fence for multiple residential districts and not for single family homes. Councilmember Ericson said there is a difference in the use. A single family dwelling should be treated different than multi-family because there are more cars coming and going. Councilmember Marabella said this is requiring the developer of multi-family dwellings to spend a lot of money. He felt this is singling out a certain type of housing. Councilmember Christensen felt that an individual homeowner who has pride in owning the property is different than a renter that doesn't really care whether paper is blowing around and what time he comes in and out with lights shining into their neighbors. Councilmember Ericson expressed concern with requiring a certain kind of slat. He felt as long as it is a 2" slat if fulfills the desire for privacy.

Councilmember Ruth Jensen expressed concern with making apartments look like a compound and then the residents of that apartment feel like they are not part of the City. This could be why there are problems in some areas with crime because they feel like they are corralled.

Mr. Bradley explained that the purpose of these provisions is the protection of single family dwellings. Cities similar in size to Brigham City and larger have similar requirements. This is not asking more of a developer than other cities. He added that developing these projects are a business and Council and City staff need to protect the residents. They invest a lot of money in single family homes. He felt confident that this is no different, if not less restrictive, than a lot of the communities throughout the state.

Look at the standards for substations or transmission of 50 kV or greater

Mr. Bradley said this utility corridor is going to involve the County and the state. Staff tried to at least address the residential districts. It was proposed that the wording be changed to only allow substation or transmission lines up to 138 KV. Lines greater than that would not be permitted in single family and multi-family districts.

Councilmember Ericson asked if staff has worked on a corridor for the lines greater than 138 KV. Mr. Bradley replied that the City will have to work with the County and state to do this. They would currently be allowed in the industrial districts and some of the agricultural districts.

Receive input from developers on the new provisions.

Mr. Bradley reported that they contacted five developers. They only heard back from two of them. One developer asked for a clarification on the 20' wide planter strip in the protective housing section and whether or not it included parking lots or just buildings. The intent was that wherever the building is, it would be 20' away from the property line to create that buffer. The language does not really clarify that. He recommended "between the buildings and the property line" be added to clarify this. Another developer suggested that language be added that "if 10% of the buildings are completed then the same percentage of landscaping is completed." If not, landscaping will be completed before the construction and it will be destroyed as the building takes place.

Councilmember Marabella asked about the special provisions under recreation and playground areas. In the Planning Commission minutes it states that most cities require recreation and playground areas on five or more dwellings. However, this ordinance is tighter than that and requires it on three or more dwellings. He felt this is putting an extra strain on the small builders in town. Mr. Bradley explained that the staff started with a higher number and the Planning Commission wanted it to be a lower number. Councilmember Marabella questioned whether a playground area should be required if the development is near a school or City park.

Councilmember Ericson asked how the requirement for a recreation of 2,000 square feet compares to City parks. Mr. Fonnesbeck said the smallest park in Brigham City is Playground Park on East Forest. It is probably 1.5 acres. Mr. Bradley said the ordinance does not require playground equipment, etc., it can just be a grassy area.

Councilmember Marabella suggested a work session be scheduled to go over this in more detail.

MOTION: Councilmember Marabella made a motion to table this item and schedule a work session and invite the Planning Commission. The motion was seconded by Councilmember Ruth Jensen and unanimously carried.

The Council scheduled a work session for November 5, 2009 at 5:30 p.m. (*This was later rescheduled to December 3, 2009 at 6:00 p.m.*)

MAKING LIFE BETTER - DEPARTMENT REPORTS

Jim Buchanan - Mr. Buchanan reported that all City departments have been briefed on the H1N1 flu virus. Utah has had three deaths from H1N1. There are currently 100 people hospitalized with this flu. The vaccination should be delivered on Monday. They are prepared to administer it to all City employees. There have been 245 doses ordered. Beginning November 2, the Health Department will start administering the vaccination to all school children. Two high schools in the state have closed because they have over 250 students that have this flu.

Judy Loveland - Ms. Loveland came forward and reviewed the complaint activities for 2009. Councilmember Marabella asked about the inconsistency of signs. He asked why real estate signs can't be put on a parking strip, yet garage sale signs are on parking strips on the weekends, because the ordinances are not enforced during the weekends. Ms. Loveland said she doesn't work on the weekends, but she doesn't pick and choose which signs she removes and which ones she doesn't. When she sees any sign or is notified that there are signs in the park strip she either removes them or notifies the person to move them. It was suggested a write up be published in the paper or a flier in the utility bills notifying citizens of the ordinance.

Chief Tittensor - Chief Tittensor announced that on October 16, Lt. Mike Nelsen, who serves as on the Special Olympics Law Enforcement Torch Run Committee, will present a check to the Special Olympians for over \$200,000. This money came from the Utah law enforcement officers.

CLAIMS

Payment Register

Councilmember Christensen moved to approve General Claims dated October 6, 2009 in the amount of \$484,828.62. The motion was seconded and carried.

A motion to adjourn to a Redevelopment Agency Meeting was made by Councilmember Marabella. The motion was seconded and carried unanimously. The meeting adjourned at 9:00 p.m. The Council returned to a regular meeting at 9:07. A motion to adjourn to an Executive Session to discuss the sale of real property was made by Councilmember Christensen. A roll call vote was taken in which all Councilmembers voted aye. The meeting adjourned to a closed session at 9:07 p.m. The Council returned to an open meeting at 9:40 p.m. and adjourned.